

BOARD OF MANUFACTURED HOUSING
DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY

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Fire, Building & Life Safety

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Phoenix, Arizona
March 17, 2010
1:02 p.m.

PREPARED BY:

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DEPARTMENT OF FIRE, BUILDING
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1 REPORTER'S TRANSCRIPT OF PROCEEDINGS, taken
2 before the Board of Manufactured Housing, Department of
3 Fire, Building and Life Safety Board Meeting held at
4 1110 West Washington, Phoenix, Arizona, on the 17th day
5 of March, 2010, commencing at the hour of 1:02 p.m. of
6 the said day. The proceedings were reported by DOREEN
7 C. BORGMANN, RMR, CRR, and a Certified Reporter in and
8 for the County of Maricopa, State of Arizona.

9

10 BOARD MEMBERS:

11	ROSS E. WAIT, Chairman	ROBERT GIBB
12	SAMUEL BAIRD	CATHERINE MCGILVERY
13	PAUL DeSANCTIS	ROGER WENDT
14	NEAL HANEY	

15

16 FOR THE DEPARTMENT:

17	GENE PALMA	BETH SOLIERE
18	BOB BARGER	MARYANN KNIGHT
19	DEBRA BLAKE	

20

21 ALSO PRESENT:

22	KEN ANDERSON
23	KARA HOLT

24

25

1 P R O C E E D I N G S

2 CHAIRMAN WAIT: I'll go ahead and call the
3 meeting to order. It's 1:02. And this is a nuclear
4 watch, so I know it's correct. It's my Christmas
5 present.

6 MS. KNIGHT: Roll call. Sam Baird.

7 MR. BAIRD: Here.

8 MS. KNIGHT: Paul DeSanctis.

9 MR. DeSANCTIS: Here.

10 MS. KNIGHT: Robert Gibb.

11 MR. GIBB: Here.

12 MS. KNIGHT: Neal Haney.

13 MR. HANEY: Here.

14 MS. KNIGHT: Carlo Leone.

15 Catherine McGilvery.

16 MS. McGILVERY: Present.

17 MS. KNIGHT: Joseph Stegmayer.

18 Ross Wait.

19 CHAIRMAN WAIT: Present.

20 MS. KNIGHT: Roger Wendt.

21 MR. WENDT: Here.

22 MS. KNIGHT: And from the Department, we have Bob
23 Barger.

24 MR. BARGER: Here.

25 MS. KNIGHT: Debra Blake.

1 MS. BLAKE: Here.

2 MS. KNIGHT: Deb Soliere. And Bob is going for
3 introduce our new director.

4 MR. BARGER: I saw him go around and introduce
5 himself. As you all know, we've had a change in some
6 positions here over the past month. Been a month?

7 MR. PALMA: Seems like a year.

8 MR. BARGER: Gene Palma. He came to us from
9 Weights and Measures. He's the new Director of the
10 Department of Fire, Building and Life Safety. So he
11 gets to try and corral Debra. I've been reassigned as
12 the State Fire Marshal. And if all you remember when I
13 came five years ago, that's what I was, the State Fire
14 Marshall. And nine months later I was put into the
15 Director's position under Governor Napolitano.

16 So as things will change, I had the
17 opportunity with Gene coming over and Bill Mealey
18 resigned as the State Fire Marshal -- or retired, I
19 might say. He had enough time to retire -- that that
20 gave an opening to for me to relocate into that
21 position. And with the graces of the Governor and the
22 office over there, they let me do that.

23 So it's been a good transition. We're
24 still in transition. We've got a lot of things going
25 on. I'm learning everything that Bill is doing for me,

1 which is a lot. So, anyway, as we move forward, we look
2 forward again to a great relationship, Gene and I and
3 everybody. It's going great. We are having a very
4 positive transition in this whole process.

5 MR. PALMA: I'm excited to be here. As you may
6 have known, again, Bob just mentioned, I came over from
7 Weights and Measures, was there approximately about a
8 year. Before that, I spent six years with Governor
9 Brewer when she was Secretary of State. I was the
10 counsel for business issues there. So I am an attorney.
11 Please don't hold it against me. Recovering.

12 So far I've enjoyed the challenges that
13 have been presented to me here, and the people are
14 outstanding. I don't know how they get done what they
15 get done with the limited resources they have. I think
16 you all, you know, should be thankful you have people
17 like you have here and the staff working for you,
18 because they're doing a great job. And I'm not just
19 saying that. Because, you know, it's a tough task
20 ahead.

21 But I'm excited about it. I am excited
22 about all the issues that have come up before me and
23 tackling those and working with you side by side. This
24 is the first experience I've had in terms of working
25 directly with a board. So bear with me. I may have

1 some missteps here and there, but I'm willing to learn.
2 I'm usually a quick learner, so I hope that's the case
3 here. But I just ask for your patience here and
4 consideration, and hopefully here in a short time I'll
5 get accustomed to the terminology, procedures, policies,
6 and so forth. And we'll work together and make it a
7 fruitful relationship. So I look forward to getting to
8 know each one of you individually as well as your
9 businesses. Thank you again.

10 CHAIRMAN WAIT: Thank you very much, Gene, and
11 look forward to a long-term relationship and changes
12 that need to take place within our industry. So thank
13 you.

14 All right. I would entertain a motion for
15 approval of the September 16, 2009, minutes, both the
16 transcript and the abbreviated minutes, please.

17 MR. WENDT: So move.

18 MR. DeSANCTIS: Second.

19 CHAIRMAN WAIT: Any discussion? All those in
20 favor, say, "Aye."

21 (All responded "Aye.")

22 CHAIRMAN WAIT: Any opposed? Thank you.

23 Next item on the agenda is the financial
24 reports. First item is the December, 2009, reports that
25 are presented to us by the Deputy Director.

1 MS. BLAKE: That's contained in the packet that
2 you have in front of you as well as what was sent to you
3 to look at. I don't think there's anything unusual
4 here. Of course, open it up to questions from you.

5 But the one item I did want to just briefly
6 explain is the educational grant section at the very
7 bottom there. The prior year interest for fiscal year
8 '09-'10 looks like a typo, but it's not. We actually
9 did have \$321,000 deposited into the Relocation --
10 excuse me -- Recovery -- let me get my funds straight --
11 into the Recovery Fund.

12 And over to the right, I made an attempt at
13 explaining that. So you'll remember back a few Board
14 meetings when we went through the whole -- we had a cash
15 bond. And we went through a process of reconciling it.
16 That initial effort at reconciling it identified
17 interests that had been earned but had never been
18 deposited into the Recovery Fund as the statutes
19 require.

20 And that amount of money through the years
21 had accumulated to \$303,160.50. So we got that lump sum
22 distribution for that as well as the actual prior year
23 interest, which was just over 18,000. So that explains
24 that unusually high amount of money that was actually
25 prior year interest during last fiscal year.

1 Any other questions or discussions about --

2 MR. WENDT: Mr. Chairman.

3 CHAIRMAN WAIT: Roger, please.

4 MR. WENDT: So that's Recovery Fund money?

5 MS. BLAKE: It's Recovery Fund money.

6 MR. WENDT: So what we thought was almost a
7 negative balance in the Recovery Fund is now 320,000
8 richer?

9 MS. BLAKE: Well, yes and no.

10 MS. SOLIERE: I'm going to give you an update.

11 MS. BLAKE: Beth is going to give you an update
12 on that.

13 Do you want to do that now?

14 MS. SOLIERE: At the time that money came to the
15 fund, we had so many outstanding claims that it was
16 literally there for a day, and we paid it out. So we've
17 continued to gain -- on the handout that I provided you
18 all with, on the bottom portion of it, you'll see
19 that -- it's the one that says "Legislative Update" on
20 the top.

21 The current balance right now is 13,400.
22 We still have 12 claims pending, and five of those are
23 waiting for hearing. And then you'll see that I
24 included the amount deposited for the past three months.
25 So it's around 10,000 that we're getting each month.

1 January was higher because I collected a \$25,000 bond.
2 So we're still kind of in the same predicament that we
3 were before, just waiting to try and pay people off.

4 CHAIRMAN WAIT: Sam.

5 MR. BAIRD: Mr. Chairman, the seven that have
6 gone through the hearing, what's the total amount of
7 those claims?

8 MS. SOLIERE: Somewhere -- it's going to be over
9 a hundred thousand dollars. There's a couple there for,
10 I think, around 20. There's some that are pretty low.
11 There's 400 and 800 and 500. And there's a couple in
12 the teens. So --

13 MR. BAIRD: So as I understand it, we're paying
14 them off by the date that --

15 MS. SOLIERE: That they filed. And the next
16 person up is for one that's in around the \$20,000
17 ballpark. So as soon as this 13 gets up to 20, we'll
18 pay her, and then we'll just keep going from there.

19 CHAIRMAN WAIT: Roger.

20 MR. WENDT: Debra, excuse my ignorance. At some
21 point this interest that came in from cash bonds that
22 were paid in by dealers or contractors during the early
23 part of this agency's life, is there still a balance of
24 those there?

25 MS. BLAKE: Yes.

1 MR. WENDT: What happens? They continue to
2 accrue interest?

3 MS. BLAKE: Yes.

4 MR. WENDT: A lot of these entities are long
5 gone.

6 MS. BLAKE: Yes. As long as they're maintained
7 in a cash bond, they continue to accrue interest. I
8 think Beth -- I keep backing it to Beth. Beth's going
9 to give an update shortly about --

10 MR. WENDT: Okay.

11 MS. BLAKE: -- cash bond reconciliation and where
12 we're at with that.

13 MR. BAIRD: Okay. Thank you.

14 MR. WENDT: This is on order -- so we're getting
15 about 10 or 13,000 a month, and we owe a hundred. We've
16 got about 13?

17 MS. SOLIERE: Yes.

18 MR. BAIRD: And then we've got about five more
19 cases that are going --

20 MS. SOLIERE: That are waiting for hearing. I
21 would say there's probably two claims per month that are
22 coming in right now. It's not a lot, but still some of
23 them are pretty high. So --

24 CHAIRMAN WAIT: So that has slowed down, the
25 number of claims, substantially?

1 MS. SOLIERE: It has a little bit, yes.

2 MR. BAIRD: But we're going to get through that
3 this year, and the next year, unless something happens,
4 people aren't going to be waiting for their money, maybe
5 two a month or --

6 MS. SOLIERE: Yes.

7 CHAIRMAN WAIT: Okay. Does that cover discussion
8 on this December, 2009, report?

9 MR. HANEY: Mr. Chairman?

10 CHAIRMAN WAIT: Yes, Neal. It does not, I take
11 it.

12 MR. HANEY: I'm still having a little trouble
13 with the education. Where do we get the numbers where
14 it says 75 percent for education purposes? I know it
15 comes from -- where do these -- for instance, it says in
16 '09-'10, 13,000, 75 percent of --

17 MS. BLAKE: I'm not understanding.

18 MR. HANEY: My understanding --

19 MS. BLAKE: Well, 75 percent of the remaining
20 balance.

21 MR. HANEY: Remaining balance of -- okay. But
22 the amount available for education purposes is 75
23 percent of the prior year's interest?

24 MS. BLAKE: Minus any expenditures. So if you
25 look at that section, so the first column is the prior

1 year interest. So that's the total amount of interest
2 that was earned.

3 MR. HANEY: Okay. So that's -- you know, I know
4 I sound like I'm beating a dead horse. In '07-'08 we
5 had interest of almost 16,000. 75 percent of that would
6 have been almost 12,000.

7 MS. BLAKE: But you had 13,000 in expenditures.

8 MR. HANEY: Okay. But the amount of the interest
9 that would have been available for education purposes is
10 somewhere around -- just under 12,000; is that correct?

11 MS. BLAKE: No. It's the remaining balance. So
12 you get the interest --

13 MR. HANEY: That's where you've lost me right
14 there.

15 MS. BLAKE: Okay.

16 MR. HANEY: My understanding -- and I'll be happy
17 to be corrected -- the amount that can be used for
18 education purposes is 75 percent of the prior year's
19 interest. And so if the prior year's interest is
20 15,600, 75 percent of that would be just under 12,000.
21 Is that not correct?

22 MS. BLAKE: Let me reread the statute real
23 quickly if I can refer to it.

24 Okay. It says, "An amount not to exceed 75
25 percent of the previous fiscal year's interest earned on

1 the Consumer Recovery Fund may be expended by the
2 Director with the approval of the Board.

3 MR. HANEY: Correct. So if the prior year's
4 interest is 15,679, 75 percent of that would be just
5 under 12,000 that would be available for education
6 purposes.

7 MS. BLAKE: Yes.

8 CHAIRMAN WAIT: For '08-'09?

9 MR. HANEY: Yes. Because it says that the prior
10 year's interest that was deposited or taken care of that
11 was available for fiscal year '07-'08 is 15,679. 75
12 percent of that is just under 12,000. Unless they're
13 mislabeled, I -- you see where I'm coming from? I'm
14 not --

15 MS. BLAKE: I see where you're coming from.

16 MR. HANEY: And in '08-'09 the interest earned
17 was 14,800. 75 percent of that --

18 MS. BLAKE: Okay.

19 MR. HANEY: -- is not -- is not 15,000.

20 MR. BARGER: Mr. Chairman, if I may intervene?

21 CHAIRMAN WAIT: Sure.

22 MR. BARGER: You're right, Neal. That's the way
23 it should work out. But, again, with the payout,
24 because this is all lump sum stuff that's in the
25 Recovery Fund, so if that extra is there, we can use it

1 with the direction of the Board, the Director.

2 MR. HANEY: I understand that. And it's not that
3 we're not going to approve anything.

4 MR. BARGER: Right.

5 MR. HANEY: But I'm just trying to come up with
6 the accounting on how we're coming up with this.

7 MS. BLAKE: And I think you're right. The way
8 it's represented here is confusing. In the effort to
9 clear it up, it became more confusing. So you're right.
10 I think what we need to add is a column that says,
11 "Based on the prior year interest, 75 percent of it was
12 available for education. Here's how much you used.
13 Therefore, here's the remaining balance." Would that
14 help clarify it?

15 MR. HANEY: As long as it's clear. Because at
16 this point what it looks like is it says 75 percent for
17 education purposes is 4,559. And that's a lot closer to
18 30 percent of the prior fiscal year. The next one says
19 15,000, and that's certainly more than 75 percent of the
20 14,000.

21 MR. PALMA: Are expenditures things that we pay
22 out?

23 MS. BLAKE: No. Expenditures are grants
24 approved.

25 CHAIRMAN WAIT: There seems to be an ongoing

1 debate regularly, Neal.

2 MR. HANEY: Yeah.

3 CHAIRMAN WAIT: And I would appreciate it if we
4 could get those so that it's very understandable. I
5 think all the pieces are here, but what Neal is saying
6 is correct. It's confusing. It doesn't flow properly.
7 So whether that takes one column or two columns or
8 whatever it takes, it should be set up so we can look at
9 it and it makes sense to us.

10 MS. BLAKE: Perfect. What I will do is try to
11 correct and clarify. And rather than wait for the next
12 scheduled Board meeting --

13 CHAIRMAN WAIT: Just e-mail it to us.

14 MS. BLAKE: -- we'll e-mail this out to you.

15 CHAIRMAN WAIT: Sure. Okay. Roger?

16 MR. WENDT: We're still on this report?

17 CHAIRMAN WAIT: Well, you know, the next item on
18 the agenda is update on research in prior year for
19 interest and educational grant payouts. So we're right
20 on it.

21 MS. BLAKE: Yeah. And that's this handout that
22 you should all have. At the last Board meeting, Neal
23 had asked about an accounting for all the prior year
24 interest. Central Services Bureau is who we use here to
25 help with our accounting. So I contacted them. E-mail

1 is attached. And here is what they sent, which is on
2 the first page.

3 Basically, what she said is -- I'm just
4 paraphrasing -- it really wasn't tracked and recorded.
5 Therefore, she has no way of verifying prior year
6 interest prior to FY 08. And so you all remember Matt
7 Kennedy, who worked here with us before. He reported to
8 her that there was zero prior year interest on all years
9 before. So I think it was just -- it wasn't recorded,
10 documented. And at this point, this is the best, most
11 accurate information that we're going to be able to get.

12 MR. HANEY: At this point it's moot, because we
13 don't have any money to use for education programs
14 anyway.

15 MS. BLAKE: Yeah, it still needs to be right.

16 MR. HANEY: Yeah. It does. And if the
17 information is not there, it's just not there. So --

18 CHAIRMAN WAIT: Did you have a comment?

19 MR. WENDT: No. Pass for that one. Thank you.

20 CHAIRMAN WAIT: Okay. Any other discussion
21 regarding educational funds? The interest earned
22 therefrom from the Recovery Fund.

23 All right. Next item on the agenda is
24 update on additional budget cuts and January 2010
25 reduction in force by State Fire Marshal.

1 MR. BARGER: We did have to implement a 15
2 percent cut, which was, because this is half a year,
3 seven and a half percent. That caused a reduction in
4 force of all the training sections, those three members
5 with the Fire Marshal's Office for fire fighter
6 training. We lost the fire research coordinator. We
7 lost our front staff.

8 And we had to close the Tucson office. So
9 we don't have an administrative office out of the Tucson
10 office anymore. However, because of the way things are
11 set up in State budgeting, we have to continue to pay
12 rent on the office space in Tucson. So the inspectors
13 are still working out of the office, but it's not an
14 office open for permitting or anything else out of that
15 office.

16 So what happened is we thought we were
17 going to be able to get out of that. We weren't able to
18 get out of that because there's still money owed on that
19 building to the State. The only way we can get out of
20 that, if you are interested, is to find somebody to come
21 in behind us and rent it from us. So we couldn't get
22 out of the rent. We still have to pay the \$90,000 on
23 that.

24 Same thing with the building that we're
25 currently in. We can't get out of this unless we get

1 somebody to come in and pay the rent behind us.

2 So it was a considerable cut and reduction
3 in force with the additional seven and a half percent.

4 Just kind of briefly what's coming up, I
5 don't know if you've all been following the legislative
6 budget process. In that budgeting process, it actually
7 eliminates the Department of Fire, Building, and Life
8 Safety from the General Fund.

9 So in that respect, what we've kind of
10 found out was elimination from the General Fund doesn't
11 mean that we would be stand-alone or go on our own, or
12 Fire Marshal's Office or anything else. It looks like
13 it would be a move to dissolve the Department of Fire,
14 Building, and Life Safety.

15 As you all know, there's a lot of the
16 issues on that when it comes to the statutes and all the
17 other things on what the office does for the industry
18 through the impact through the whole program, through
19 HUD and through the relocation.

20 So we sent over some information through
21 Gene over exactly what we do and what the cost was, what
22 is this office mandated to do by statute. On the Fire
23 Marshal's side the only thing we're mandated to do is
24 provide public education, fire and safety education to
25 the schools, and inspect the schools, State and County

1 buildings.

2 On the manufactured housing side, you're
3 required to do the FPM. And then there's that
4 separation between the HUD standard issues and then the
5 modulars. And some are State-regulated. Some are HUD
6 standard homes regulated through HUD. So we sent over
7 that separation, said this is everything that we do
8 that's mandated in the statute.

9 Our continuing efforts are dependent upon
10 the May 18 vote, the one cent tax increase. If that
11 does not pass, then I suppose we would have to get
12 together and say, "How do you dissolve this department
13 and all its functions?" Do you send it somewhere else?
14 The Fire Marshal's Office. Personally I don't know how
15 you give it to the Fire Marshal, I guess because I am
16 one. But it's just one of those things.

17 We would be the first state, obviously, in
18 the United States that does not have a State Fire
19 Marshal's Office. So you look at all those things, at
20 the county, local jurisdictions, how do those things
21 transpire? How do you transpire what Office of
22 Manufactured Housing does as far as dealing with HUD and
23 all the plan reviews and everything that the Office of
24 Manufactured Housing does and all the things that we do
25 through the Office of Administration for licensing and

1 legal issues and all those sorts of things. So how do
2 you -- I mean, you just take the departments that no
3 longer exist.

4 As you all well know, the -- so if it
5 doesn't pass, that's what we have to go for. If it
6 passes, we can remain intact. So they kind of put that
7 umbrella over us a little bit. And if it passes,
8 though, I will share with you that we are still going to
9 experience an additional cut in next year's budget. And
10 we were currently at 12,185,000. We will be reduced to
11 2,007,000. I'm sorry. We will be reduced to 2,007,000,
12 which could transpire into additional cuts. All we have
13 left pretty much are the inspectors and people.

14 So either way, it's not going to be pretty
15 for us. If it doesn't pass, it's going to be -- we'll
16 all have to, I guess, have an emergency meeting and
17 figure out what's going to happen here. Because a lot
18 of what the Office of Manufacturing Housing does takes
19 direction from this Board on those kind of issues as far
20 as fees and how this is all going to work. So we're
21 just kind of -- actually, we're just kind of in limbo
22 really. We're processing things, obviously, but we have
23 to wait and see what the vote is on May 18 on whether
24 that one cent tax increase is going to pass or not.

25 CHAIRMAN WAIT: Roger.

1 MR. WENDT: Thank you, Bob. It's my perception
2 at this point, at least, that that one cent sales tax is
3 going to pass. I'm not real concerned yet. But, yeah,
4 it does concern me that the whole apple cart will get
5 upset, and we'll have to figure out which way to go. I
6 think there's probably some things we could live
7 without. But it's a lot of them that we've become
8 pretty used to. It's good for the industry. So kind of
9 like the rest of us, just one day at a time to see if
10 this business succeeds or not.

11 MR. BARGER: Exactly. Again, as you all know,
12 being in the business, things are way down and those
13 kinds of things, and it's going to be a while before it
14 turns around. Even if it starts to turn around right
15 now, it's going to take a while for all that to come
16 back before you can actually say we're on the road to
17 recovery. So that's the doom and gloom of the budget
18 update.

19 And it's pretty amazing, all that's going
20 on in there. As you all know, the Department of
21 Juvenile Corrections was tasked -- was possibly going to
22 be eliminated, pushed down to the County level. They
23 have a one-year reprieve on that. It's still not out of
24 the ballpark. It's going to happen, just not happen
25 this year.

1 Tax increase -- Gene, I think this is
2 correct. If the tax increase doesn't pass, we're
3 looking at a July 1, 2010, date of not being in
4 existence anymore.

5 MR. PALMA: Possibility, yes.

6 CHAIRMAN WAIT: You're saying OMH, Fire Marshal
7 gone?

8 MR. BARGER: Correct. Now, obviously, we will
9 try to have some input on that. It's hard to just
10 eliminate those two departments for what they do to the
11 State because there's so much in the statute for what we
12 do. So you look at that, or you look at, well, you put
13 this office here and this office here, one of the
14 different sections. I don't know. That's something
15 we'll have to get together and discuss after the May 18
16 vote.

17 MR. PALMA: I just want to clarify. If the sales
18 tax fails, the likelihood of the structure remaining as
19 it is in terms of Office of Manufactured Housing and
20 Fire Marshal and administrative side of it remaining as
21 it is today is highly unlikely. Just simply the numbers
22 telling you it's not going to fit.

23 Having said that, I'm sure that -- again,
24 that is my personal opinion. I'm sure, simply because
25 from a legal perspective, there are so many statutory

1 duties that are required of all three divisions that
2 they would most likely again be probably relocated in
3 some other fashion in another area. So you can't really
4 say that we would stop existing. But there would be
5 some changes, obviously, because the numbers don't match
6 up. And the Department of Fire, Building and Life
7 Safety would not continue as it is structured today.
8 It's just not simply economically possible or feasible.

9 But, again, once that happens, if it does
10 not pass, and they have about six weeks to consider all
11 options, and there's a number of options out there. But
12 at that point in time, we're going to have to sit down
13 and review all those. I don't want to sit here and --
14 it's all conjecture at this point. But that's what it
15 is at this point in time.

16 CHAIRMAN WAIT: Sam.

17 MR. BAIRD: When are you expecting to hear back
18 from the Attorney General's Office as to the mandated
19 issues? Somewhere before --

20 MR. PALMA: Well, it actually didn't go to the
21 Attorney General's Office. It actually was sent to the
22 Governor's Office just to give them heads up as to what
23 is out there in terms of statutorily required duties
24 from the existing departments. So that way they can
25 prepare -- again, in case the sales tax is not passed,

1 they can prepare some kind of contingency plans and
2 proceed from there.

3 But there really isn't a response expected.
4 It's just a matter of, again, on May 19, we'll know a
5 lot more as to what can and can't happen and what
6 options are available. And at that time, obviously,
7 we'll let you know as soon as we know how the Governor's
8 office will proceed.

9 MR. BAIRD: Okay. Just to follow up, Bob, you
10 mentioned looks like about a 20 percent decrease in the
11 budget would be happening.

12 MR. BARGER: 2.5.

13 MR. BAIRD: 2.5, 2.0. As you know, the
14 businesses today, the entities, would they be able to
15 operate through the current guidelines at that rate?

16 MR. BARGER: It depends on where the cuts would
17 be. Obviously, it's all people, and all we have left
18 are inspectors on both sides.

19 MR. BAIRD: Right.

20 MR. BARGER: So it would be very difficult. Now,
21 the Fire Marshal's side, it's in the statute that you
22 will do a regularly scheduled inspection of. Regularly
23 scheduled is dependent on whatever. Nationally, it was
24 annually. But people aren't able to do that anywhere
25 nationally anymore. Regularly scheduled could be every

1 five years to inspect a school.

2 The other side of it, however, is based on
3 business and permitting and the issue of what's being
4 built in the factories, plants, and things, what's being
5 delivered and set up and installed. So that's an issue
6 of if that business picks up and you've cut --
7 currently, you only have three in-plant inspectors now.
8 If that business picks up real fast, then what we've
9 discussed will actually become a bottleneck for the
10 industry because we can't keep up with it.

11 And we've talked a little bit with Scott
12 Butler about those issues, too, about our inability to
13 inspect them as they're being built and then get
14 inspectors out in a timely manner to inspect an
15 installation. Because what makes the industry thrive,
16 obviously, is getting them built and getting people in
17 their house quickly.

18 MS. BLAKE: And I would say that what we've done
19 internally, even though we've had severe cuts, is to
20 really move forward with some cross-training. Because
21 we've cross-trained two additional inspectors to be able
22 to support the inspection and manufacturing facilities
23 so that we are prepared. And the same way taking some
24 of those folks and training them on the installation
25 side of it so that we are prepared. Because we do not

1 want to impede any production, shipping, whatever that
2 needs to happen once things start to pick up.

3 CHAIRMAN WAIT: Sort of amazing. Been in this
4 industry a long time and on this board probably 14
5 years. I guess we're down to the last 15 seconds of the
6 game, and we're relying on a one percent Hail Mary pass.
7 Huh?

8 MR. HANEY: That's about it.

9 MR. BARGER: So unless there's any further
10 questions, we'll just have to, again, wait and see what
11 happens on the 18th.

12 MR. WENDT: One thought, I guess. It would seem
13 to me, though, that by encouraging more
14 intergovernmental agreements with local, etcetera, we
15 could figure out a way to adjust.

16 MR. BAIRD: As far as inspections?

17 MR. WENDT: Yeah. Take some weight out of the
18 field inspections, try to get the IGA's to pick those up
19 and then concentrate on the, you know, office stuff for
20 you. You're going over plans, and it's been hard. You
21 can't plan inspections. I think our industry group is
22 certainly willing to help with that, encourage those
23 locals to get on board with that. So even worst case
24 scenario, we'll get through it.

25 MR. BAIRD: We were told, Mr. Chairman, that the

1 IGA's are inspecting anyway. They're going to the same
2 sites, only looking at parts of setups, not some of the
3 things that y'all are inspecting as well. So they could
4 be handled by one source in certain areas of the state
5 for sure. So that would eliminate your drain on
6 manpower, also drain on your budget and income.

7 MS. BLAKE: Yes.

8 MR. BAIRD: Needs to be a balance there.

9 CHAIRMAN WAIT: But I assume those counties or
10 cities that do not have the IGA relationship, what
11 happens then? They either pick it up or homes don't go
12 there, go to those jurisdictions?

13 MR. BARGER: If, in fact, the tax doesn't pass?

14 CHAIRMAN WAIT: Correct.

15 MR. BARGER: The department somehow shifted
16 responsibility somewhere else? I don't know.

17 MS. BLAKE: Well, then you get the oversight of
18 HUD. Because HUD has, as you know, last year enacted
19 their installation program. But I can tell you in very
20 candid conversations with HUD for those default states
21 that they have that oversight now, they don't have the
22 resources to do any inspections. So all they're doing
23 is the back end of it, responding to complaints they
24 receive.

25 And those HUD-mandated -- the states that

1 HUD has oversight on, installers that live in those
2 counties or do work there have to post a \$1,000,000 bond
3 with the feds to insure any complaints that they might
4 get. And pretty much -- I can't speak for Roger, but
5 pretty much most of the installer licensee base we have
6 could not come up with a \$1,000,000 -- assets for a
7 \$1,000,000 bond. Just not going to happen. And so then
8 you just create chaos because you have unlicensed people
9 doing work and nobody really inspecting. So --

10 MR. BARGER: And that's on the HUD side. On the
11 FBD side, which is State-regulated through IRC and IBC,
12 that would be pushed down to local jurisdictions to
13 figure out how to do that.

14 MS. BLAKE: Right.

15 CHAIRMAN WAIT: Okay. Any other discussions
16 regarding this topic?

17 All right. Next item on the agenda is
18 update on legislative bills presented by the Director of
19 Compliance.

20 MS. SOLIERE: If you would all please refer back
21 to the handout.

22 CHAIRMAN WAIT: Yeah.

23 MS. SOLIERE: House Bill 2058 titled Residential
24 Landlord Maintenance and Repair, the reason that I'm
25 updating on this, originally, it was entitled Mobile

1 Home Parks Maintenance and Repair. Early on in the
2 process, the bill was amended. Mobile home parks were
3 taken out. And now it deals mainly with apartment
4 complexes.

5 House Bill 24734, Manufactured Housing
6 Escrow Account. Currently, this bill has passed through
7 the House of Representatives. And it's in the Senate
8 waiting for a committee, the Senate Commerce and
9 Economic Development Committee. So it's waiting to be
10 put on an agenda within the next few weeks probably.
11 We've also developed a task force to address writing the
12 escrow instructions, and we're planning to meet here
13 within the next couple of weeks.

14 MR. WENDT: Who's on that task force?

15 MS. SOLIERE: There's about 10 people. They're
16 from all different industries.

17 MR. WENDT: You don't have them memorized?

18 MS. SOLIERE: No. Dealers, routers, someone from
19 banking, someone from AAMCO. I can provide you with a
20 list if you like.

21 CHAIRMAN WAIT: The title industry?

22 MS. SOLIERE: Yes.

23 MR. WENDT: They should be well represented since
24 they are a part of putting it together.

25 CHAIRMAN WAIT: So would that replace the

1 Recovery Fund, in essence?

2 MS. SOLIERE: I believe it would replace only on
3 homes sold over \$50,000. So under 50,000, it can still
4 go through Recovery Fund.

5 Next is House Bill 2446. That's titled
6 Alarm Business and Agents. If this bill passes, it
7 would require our department to license alarm businesses
8 and their agents. The reason I'm updating on this is
9 because just to inform you that it's a possible increase
10 in work load for our department. Currently, the bill is
11 through the House, and it's waiting to be assigned to
12 committee in the Senate. Hasn't been assigned yet.
13 So --

14 MR. HANEY: This is for a department that may not
15 be here.

16 CHAIRMAN WAIT: Yeah.

17 MS. SOLIERE: And then lastly is the budget
18 bills, which Bob and Gene both already talked about.
19 These bills passed through both the House and the Senate
20 last week. So they're on their way to the Governor's
21 Office. And like Bob said, you know, we're dependent on
22 the sales tax passing in May.

23 MR. BAIRD: I'm a little unclear on that. It was
24 the Senate that said if it doesn't pass, we're out
25 or was it --

1 MS. SOLIERE: It's both. Senate Bill 1001 and
2 House Bill 2001 are the same. They both had a provision
3 that if the sales tax doesn't get passed, our agency is
4 off the General Fund. And then House Bill 2004 and
5 Senate Bill 1004 coincide with that to say that whatever
6 is left after they cut us by almost two million dollars,
7 that the Director of the department, it's at his
8 discretion to decide what duties to continue on with.
9 It's about, like, \$70,000 remaining. And then from that
10 point forward, we would be off the General Fund.

11 CHAIRMAN WAIT: Roger, redefine from here, if you
12 will.

13 MR. WENDT: So how much of our annual budget is
14 reliant on the General Fund.

15 MS. BLAKE: We're going to talk about that next.

16 MR. WENDT: Okay.

17 CHAIRMAN WAIT: I believe I read a comment the
18 Governor made -- correct me if I'm wrong. I think she
19 said that if all State employees were laid off, we'd
20 still have a deficit.

21 MR. PALMA: Right.

22 CHAIRMAN WAIT: Does that put it into
23 perspective?

24 MR. BARGER: Yes. To clarify, it was the
25 legislative budget that eliminates the office, not the

1 executive budget.

2 CHAIRMAN WAIT: Okay. Any need for further
3 discussion regarding these House bills or legislative
4 updates?

5 Next item, fee structure. The Board shall
6 establish a fee schedule before May 15 for the coming
7 fiscal year. And I know up until at least last meeting
8 there was a moratorium on fees. Has that since been
9 removed or --

10 MS. BLAKE: It's not been removed to my
11 knowledge. But our director would be able to make -- or
12 any director -- make a request for an exception to it.

13 MR. PALMA: Right. You can request an exemption
14 from the moratorium. So that -- because this is based
15 on a statutory requirement, I don't anticipate an issue
16 being granted the exemption. Of course, I've seen other
17 issues which have come up. But, again, because it is
18 statutorily required, I don't see a problem being
19 granted an exemption.

20 MR. WENDT: And these -- this fee schedule that
21 we adopt goes into -- would go into effect July 1.

22 MS. BLAKE: Correct.

23 MR. WENDT: So then we'd have to adapt. We have
24 to do it by May 15. The one cent sales tax vote isn't
25 until the 19th. It's a little bit of a conundrum. We

1 should either set these fees based on the assumption
2 that the one cent sales tax will pass or will not pass.

3 MS. BLAKE: Well, I think the other point to be
4 made is that you establishing fees doesn't require a
5 rule change. Because the rules say you establish them.
6 It doesn't set what they are except for the bond
7 amounts. And so we wouldn't have to have any rule
8 changes. We would just ask for an exception because the
9 Governor didn't want cost to consumers to increase. So
10 it's not as challenging as getting a rule package
11 together and getting it through that process.

12 CHAIRMAN WAIT: So if there were a fee increase,
13 it would have to be subject to obtaining the exemption?

14 MS. BLAKE: Yes.

15 CHAIRMAN WAIT: And number two, subject to
16 passage of the one percent sales tax?

17 MR. PALMA: No. The one percent sales tax is a
18 separate issue.

19 CHAIRMAN WAIT: I understand. But if the agency
20 doesn't exist after that, then what's the use? That's
21 what I'm saying.

22 MS. BLAKE: Right.

23 MR. PALMA: Well, the agency may cease to exist
24 as we know it today, but the Office of Manufactured
25 Housing --

1 CHAIRMAN WAIT: Might be somewhere else.

2 MR. PALMA: -- could continue to operate. And,
3 therefore, your fees still continue.

4 CHAIRMAN WAIT: Got you. All right. That point
5 is well taken.

6 MS. BLAKE: So Mr. Chairman and Board, this last
7 packet of information that you have in your handouts, I
8 wanted to share with you the information in here so that
9 you can discuss the fee structure.

10 I also wanted to provide you with the
11 annual update on the statutory requirement that we
12 operate within a 95 to 105 percent provision. And so on
13 the first page, and then we'll get into more detail, I
14 just put it there for information. But as long as --

15 CHAIRMAN WAIT: This page? This page or this
16 page? Okay. This one.

17 MS. BLAKE: Yeah. Your actual fee schedule is in
18 your agenda packet on the last page. This is a separate
19 handout.

20 CHAIRMAN WAIT: Can we go to this one?

21 MS. BLAKE: This is the one I want to go to.

22 CHAIRMAN WAIT: We do not have a problem with
23 that 105 million coming in.

24 MS. BLAKE: Yeah. Obviously, those calculations
25 are incorrect. That's what was reported to you as part

1 of the June, 2009, end of fiscal year 2009. And they're
2 just not right.

3 So in working with Central Services Bureau
4 and making sure that we're communicating and both on the
5 same page, in this packet is your financial report for
6 2010, January. And where we sit right now, we're
7 operating at an 89 percent rate. You can see that fees
8 are lower than expenditures. And so by statutory
9 requirement, we're going to have to -- or you're going
10 to have to entertain adjusting that. We have to get
11 that to a minimum of 95.

12 So when I played with the numbers a little
13 bit and tried to figure out, make some recommendations
14 to you for you to consider, in the last box at the
15 bottom, if we raise fees pretty much right across the
16 board 15 percent -- and I have the charts in here -- it
17 gets us to this last block of information. And it gets
18 us to 98 percent.

19 So before I drop ahead, Roger, to answer
20 your question, 98 percent the fees that we collect -- or
21 of the fees that we collect pays 98 percent of our
22 expenses. So we collect enough fees even in this --
23 with the fee increase that we can support all the
24 expenses of OMH. Now, this is just OMH. We can support
25 98 percent of the expenses.

1 MR. BAIRD: So we would only be asking for, like,
2 15 grand from the General Fund?

3 MS. BLAKE: Whatever that calculates out to.

4 MR. BAIRD: Two percent.

5 MS. BLAKE: Or we do some more adjustments to get
6 it down to where we are a hundred percent self-
7 supporting. All the fees cover all the expenses. And
8 so in the next page in that packet, I provided you the
9 January report. The first one as it sits today, which
10 shows the 89.2 percent, which is where we are with the
11 fee structure the way it currently sits. Everyone have
12 that? So I added to the far side the 89.20 percent,
13 which is where we're at.

14 The next page of that is exactly what I
15 went over with you. If we do a 15 percent across the
16 board fee increase, then that changes that proration to
17 97.5 percent. Round it up to 98. Do you have
18 everything you need there, Ross?

19 CHAIRMAN WAIT: Oh, just give me a second. Yep.

20 MS. BLAKE: Got you.

21 CHAIRMAN WAIT: Have it now.

22 MS. BLAKE: So what that equates to is in --
23 sorry you have so many papers here. But the last chart,
24 which is my recommendation to you on the fee increase,
25 is a two-page document, and it looks like this.

1 MR. BARGER: It's on the back of your colored --

2 CHAIRMAN WAIT: Got it.

3 MS. BLAKE: So that lists all of the fees, shows
4 you what the current fee is, shows you the
5 recommendation for increase, and shows you what the new
6 fee would be. So licensing fees go up. Renewal fees
7 for licensing goes up. For an example, installation
8 permit for a manufactured home currently is at \$120 for
9 the permit. Would go up to \$180. Currently, the local
10 jurisdictions that are in under governmental agreements
11 with us are charging 200, because that's the max. So we
12 would --

13 MR. BAIRD: So 150 percent?

14 MR. HANEY: 120 to 180 is a 50 percent increase.

15 MS. BLAKE: I'll check that calculation.

16 MR. BAIRD: Should be 138.

17 CHAIRMAN WAIT: Yeah. 138.

18 MS. BLAKE: Thank you.

19 MR. BAIRD: The intent was to go 15 percent.

20 MS. BLAKE: Yes. The intent was to go 15
21 percent. The only exceptions to that are on that first
22 page, and that is making a 25 percent increase for
23 commercial factory-built buildings where they would go
24 from \$4.00 per linear feet to \$5.00 per linear foot.

25 MR. BAIRD: And the rationale there?

1 MS. BLAKE: It's considerably less than what the
2 local jurisdictions are charging. And the only other
3 exception, I think, is in the mobile home rehabilitation
4 permit. And the rationale for lowering this by 50
5 percent is the population of people that are coming to
6 us to have to rehabilitate a home pre-HUD standards,
7 1976 units, seem to really struggle with being able to
8 come up with that permit fee. They're very -- the
9 population is under the poverty level typically. And so
10 if we can help that population a little bit and still
11 get to where we need to go.

12 MR. HANEY: If they're under the poverty level,
13 isn't there funds available through the Relocation Fund
14 to cover that?

15 MS. BLAKE: We reimburse them for the cost of
16 bringing it to Code, up to \$1,000. We don't give them
17 any consideration on getting the permit, which is
18 required to then start the rehabilitation process. So
19 they don't get the permit fee back. They just get up to
20 \$1,000 for the cost of the materials of bringing it up
21 to Code.

22 So these are just suggestions for you.

23 MR. BARGER: One additional thing on that, on the
24 rehabilitation. That's out-of-pocket expense to get it
25 fixed and then submit receipts to recover those funds.

1 So --

2 CHAIRMAN WAIT: So I guess my question is is this
3 something for us to think about, or are you anticipating
4 us voting on this today?

5 MS. BLAKE: You could do it either way, Mr.
6 Chairman. If you decide to consider it, you would have
7 to call for a special Board meeting prior to May 1,
8 because, remember, the statutory limitation.

9 CHAIRMAN WAIT: I understand that.

10 MS. BLAKE: So --

11 MR. HANEY: Mr. Chairman.

12 CHAIRMAN WAIT: Yes, Neal.

13 MR. HANEY: Could I ask a couple of questions?

14 CHAIRMAN WAIT: Certainly may.

15 MR. HANEY: Thank you. Some time ago we had
16 talked about when we were looking at fees, I think last
17 year and probably the year before that, about having
18 some people break down on where our expenses were
19 incurring in relation to the income derived from that.
20 For instance, is half of the budget on factory
21 inspections, and how much more income then comes from
22 factory fees. Did we ever do anything with that as far
23 as a labor distribution cost analysis, that kind of
24 thing?

25 MR. BARGER: No, we didn't.

1 MS. BLAKE: We haven't. I think that was before
2 my time.

3 MR. HANEY: It's been twice in the last two
4 years.

5 MS. BLAKE: Oh, okay.

6 MR. HANEY: Also. When you look at -- when
7 you're giving us these expenditures here of -- or
8 projected expenditures of \$756,000, is there any part --
9 I know at one time the discussion said that a portion of
10 the office administration -- and I forget the
11 percentage, something like 60 percent -- was allocated
12 as part of this. Is that true with this?

13 MS. BLAKE: I think the portion is about 30
14 percent, and yes.

15 MR. HANEY: So this, in essence, this 756,510, is
16 the anticipated cost of running the Office of
17 Manufactured Housing, all of its related functions, and
18 a portion of the administrative cost that's in the
19 offices -- Office of -- what is that? Administration?

20 MS. BLAKE: Yes.

21 MR. HANEY: So that's the total cost.

22 MS. BLAKE: It's the total cost of operating OMH
23 functions.

24 CHAIRMAN WAIT: And that's for 2010-11?

25 MS. BLAKE: I'm sorry? I'm not sure --

1 MR. BARGER: Is this calendar or fiscal?

2 MS. BLAKE: Oh, it's fiscal.

3 CHAIRMAN WAIT: So for 2010-11?

4 MR. BARGER: Yes. July 1 through June 30.

5 CHAIRMAN WAIT: Is that assuming this additional
6 cut you've talked about?

7 MS. BLAKE: It does not include that cut. If, in
8 fact, that cut came from the OMH part of the
9 department -- and it's likely that it would -- that does
10 not reflect that in the expenditures.

11 MR. HANEY: If we're covering our costs through
12 fees anyway, I don't see how that plays into it then.

13 MS. BLAKE: Well, except that the expenditures
14 would come down. But then --

15 CHAIRMAN WAIT: Just, for instance, let's say
16 this next year you're talking -- I don't know -- seven
17 percent or ten percent reduction for fiscal year
18 2010-11. Maybe it takes a hundred thousand dollars
19 making that up. So no rate increase would be necessary
20 to meet the 95 to 105 is all I'm saying.

21 MR. HANEY: Okay. I understand that. But none
22 of this has anything to do with the general budget.

23 CHAIRMAN WAIT: No.

24 MR. HANEY: So regardless of what they say, what
25 we're looking at is coming up, matching revenue to the

1 actual cost.

2 MS. BLAKE: Yes.

3 MR. HANEY: And I guess my follow-up question to
4 that is my understanding is that, with the blessing of
5 the Tenants Association and the Governor's Office,
6 there's \$900,000 a year being taken out of the
7 Relocation Fund. Where does that come into play in
8 this?

9 MS. BLAKE: The relocation fee, the part of it
10 that supports the administrative cost of it is reflected
11 in this expenditure.

12 MR. HANEY: Okay. But where is the income
13 derived from pulling funds out of the relocation fund
14 reflected in this? As far as the moneys that we use to
15 offset the indirect and direct costs, I'm not sure where
16 it's placed in this. But again, it's -- I don't know
17 if --

18 MS. BLAKE: It's considered here, Neal, because
19 the --

20 MR. HANEY: Okay. Where?

21 MS. BLAKE: The expenditures -- it's not
22 reflected on what I gave you.

23 MR. HANEY: What I'm saying is you're saying we
24 have an estimated annual expenditures of \$756,000.

25 MS. BLAKE: Right.

1 MR. HANEY: That covers the total cost of
2 operation operating the Office Was Manufactured Housing
3 and portion of the cost of the Office Was Administration
4 and basically everything the department does.

5 MS. BLAKE: Yes.

6 MR. HANEY: Okay. At the same time, there is an
7 amount of money being pulled from the Relocation Fund --

8 MS. BLAKE: Correct.

9 MR. HANEY: -- for this department to use.

10 MS. BLAKE: Yes.

11 MR. HANEY: Somewhere around \$900,000, which
12 more -- which is more than the estimated annual
13 expenditures. That's what I'm trying to see where that
14 is.

15 MS. BLAKE: If you look in the very top box up
16 here that was incorrectly calculated with the fees, that
17 figure of annual expenditures, which is about \$950,000,
18 that includes what you're talking about with the
19 Relocation Fund. When we pull out --

20 MR. HANEY: The expenses to administer that, yes.

21 MS. BLAKE: When we put out about 100,000 --
22 \$200,000, which are what we take out of the Relocation
23 Fund to support some of the costs of OMH, that's how we
24 get it down to the 756.

25 MR. HANEY: Okay.

1 MS. BLAKE: So about 200,000 comes out of
2 relocation to support the expenses of OMH specifically.

3 MR. HANEY: I'm sorry. I must have misread. I
4 thought I saw an audit not too long back that said
5 \$900,000 came out of it. Am I incorrect?

6 MS. BLAKE: No. You did see \$900,000. That was
7 at the high level department level. These figures are
8 strictly for OMH. Not that much money comes out of
9 Relocation Fund -- I mean, it's a lot of money, 200
10 grand -- specifically for OMH. So that's what these
11 numbers reflect.

12 MR. HANEY: Okay. I guess I'm just a little
13 dense.

14 MR. BARGER: The rest of relocation comes out of
15 the Compliance Manager's position and the Office of
16 Administration --

17 MR. HANEY: Okay. Then I'm hearing --

18 MR. BARGER: -- and the hearing function.

19 MR. HANEY: The discussion we just had said that
20 all of the costs related to the department are reflected
21 in this 756,000.

22 MS. BLAKE: No. All of the costs --

23 MR. HANEY: I'm sorry. I thought that's --

24 MS. BLAKE: -- related to OMH.

25 MR. HANEY: And the Office of Administration.

1 MS. BLAKE: No, not all of the costs for Office
2 of Administration.

3 MR. HANEY: Not all of the costs, no, but those
4 that have to do with what the department deals with.

5 MS. BLAKE: Those that have to do with what the
6 Office of Manufactured Housing deals with. For example,
7 when we get a change in use when a park is closing, we
8 send OMH inspectors to the park.

9 MR. HANEY: I understand. I know how the process
10 works.

11 MS. BLAKE: And we pay their salary out of the
12 Relocation Fund for that. So that comes out of
13 relocation. It doesn't get put per se back into the
14 fees because it's not a fee we collect. But it reduces
15 the amount of expenditures.

16 MR. HANEY: I'm just going to tell you right up
17 front. I have no confidence in these numbers at this
18 point. I just don't.

19 CHAIRMAN WAIT: Roger.

20 MR. WENDT: I would suggest by movement, Mr.
21 Chairman, that we have a special meeting before May 1 to
22 review these fees.

23 CHAIRMAN WAIT: That's my sense also.

24 MR. WENDT: Make that a motion, please.

25 CHAIRMAN WAIT: I think we need to be confident

1 that whatever we're looking at and doing is correct.
2 And I think that some of these questions that Neal has
3 raised as well as some thought process, and I realize
4 we're not going to know prior to May 15, because the
5 vote is on May 19, how that might impact the department.

6 Before we do that, Roger has a motion. Is
7 there a second?

8 MR. BAIRD: I second.

9 CHAIRMAN WAIT: Any discussion?

10 MR. HANEY: Can I amend the motion? I'd like to
11 move to amend the motion to include the numbers, the
12 actual cost of what has been used to -- for the
13 relocation and the moneys that have been taken out of
14 the Relocation Fund in relation to that.

15 MR. WENDT: I think that should be a second
16 motion.

17 MR. HANEY: Okay. I'll withdraw the amendment.

18 CHAIRMAN WAIT: Okay. So we have a first and a
19 second. Any discussion?

20 MR. WENDT: And here's some of my rationale for
21 this. That I'm a little frustrated, like Neal, that I
22 don't understand what we've got going here, where the
23 money's coming from, where it's going. I'm having a
24 little bit of a hard time with voting for just a flat
25 across-the-board 15 percent increase on everybody

1 without more information.

2 And, you know, we don't do your job, and it
3 is your job to make sure this all fits in a box and
4 everything's done properly. But I'd just like some
5 assurance that we're not -- don't have a little waste
6 here or there. And before I go to the people that I
7 represent, all the installer's industry, and say, "Hey,
8 we just had to do it." I guess that's my rationale for
9 that motion, Mr. Chairman.

10 CHAIRMAN WAIT: And a point of question, a
11 thought I have, anyway, is I would like to see a
12 breakdown of what that, in this case, 956,000. So if it
13 remains the same prior or at the next meeting, by the
14 next meeting, I would like a breakdown of that figure so
15 we have an understanding what that 956 consists of.
16 That number might go up or down between now and then.

17 Any further discussion regarding the motion
18 on the floor? All in favor say "Aye."

19 (All responded "Aye.")

20 CHAIRMAN WAIT: Any opposed? Carries the same.
21 Thank you.

22 Now, did you want a separate motion, Neal?

23 MR. HANEY: Thank you, Mr. Chairman. I would
24 make a motion that all expenses and all income covered
25 under this Office of Manufactured Housing, the Office of

1 Administration, i.e., everyone delineated in this
2 department, that affects the income and expenses be
3 included in the totals that were given.

4 CHAIRMAN WAIT: Okay. Is there a second?

5 MS. MCGILVERY: Yes, I'll second that.

6 MR. BAIRD: Second.

7 CHAIRMAN WAIT: Do you want fight over it?

8 MS. BLAKE: Mr. Chairman, before you get your
9 second, if you haven't yet, I'd just like to draw your
10 attention to the financial report that you get and is
11 available on the website. Yes. This. The -- under the
12 Expense and Revenue, which is in the bottom third of it,
13 the OMH-approved fees that you see there, I'm looking
14 at -- that are in this packet that I gave you talking
15 about the fee increase, that 57,770, which are the fees
16 that were brought in as revenue for the month of
17 January, are a sum total of all the fees that are
18 provided for you above that. So that you have the
19 breakdown, how much of the fee was brought in from plan
20 review and engineering, how much was brought in from
21 permits, inspections, insignias, licensing. That's an
22 actual breakdown for you. The HUD revenue is obviously
23 money that we received from HUD for very specific
24 purposes.

25 Revenues, we're dependent on Central

1 Service Bureau to tell us what that is. And we can
2 certainly get you that breakdown of what makes up the
3 expenses for the month. And then the calculations for
4 the estimated annual revenue and expenditures that we
5 base that proration on are a mathematical calculation of
6 the year-to-date revenue divided by the number of months
7 this is reflected of times 12. Assuming if you're on
8 this same target, this is where you're going to be.

9 So I guess I just need to make sure I
10 clearly understand. I understand your request for
11 wanting to know the breakdown of expenditures. But
12 other than what's presented to you on this financial
13 report, this is where the fees come from. So does this
14 suffice for that? Because I don't know what else we
15 could give you other than this from a revenue
16 perspective.

17 CHAIRMAN WAIT: Neal, if you had 12 months worth
18 of these, would that answer your question? I mean, it
19 doesn't give a detail of what the expenses are. It
20 shows where that revenue comes from, but not expenses
21 specifically.

22 MR. HANEY: Mr. Chairman, I -- I'll probably end
23 up sticking my foot in my mouth if I talk much more.
24 You don't care?

25 CHAIRMAN WAIT: That choice is yours. No.

1 You're on this board for a specific reason.

2 MR. HANEY: I recently heard a report -- a study
3 was done -- that this State is in dire financial straits
4 and will be for the next five years. There is no clear
5 answer. The one percent sales tax isn't the entire
6 answer. I'm a little concerned for the overall fiscal
7 responsibility certainly in your business, in Roger's
8 business. I mean, you're businessmen. And my business
9 and Sam's business.

10 I mean, we look at numbers very carefully,
11 and we're able to read things. And we have some
12 understanding of income and expense. We've talked for
13 two years about having some sort of a cost analysis of
14 what does certain things cost us as opposed to how much
15 revenue does it bring in. Part of the cost of operating
16 this office is the administration of the Relocation
17 Fund. And that does have some expenses associated with
18 it. There are -- when a property -- a community closes,
19 there's income derived from that. And there's expenses
20 associated with that.

21 And if we're going to -- if we as a board
22 who has some responsibility for setting fee s for this
23 agency, I think we ought to have a clear picture of what
24 the at least overall income and expenses are. And, yes,
25 this tells us what the fee income is. But that's not

1 all the income that comes into the coffers for this
2 agency for all the expenses that they administer.

3 CHAIRMAN WAIT: Correct.

4 MR. HANEY: And I think we should look at that --

5 CHAIRMAN WAIT: And I understand.

6 MR. HANEY: -- in its entirety.

7 CHAIRMAN WAIT: Okay. We have a first and second
8 on the floor. Any further discussion? All those in
9 favor say "Aye."

10 (All responded "Aye.")

11 CHAIRMAN WAIT: Any opposed? So moved.

12 I've got to come back and ask a couple of
13 questions. I know in years past if the revenue exceeded
14 the expenditure, basically, it went into the General
15 Fund, and they kept it.

16 MS. BLAKE: Yes.

17 CHAIRMAN WAIT: So if -- if there was an extra
18 hundred thousand for fiscal year 2010-11, would that
19 just go into the General Fund?

20 MS. BLAKE: Yes. All fees go into the General
21 Fund. All expenses --

22 CHAIRMAN WAIT: Come out of it.

23 MS. BLAKE: -- are paid out of the General Fund
24 with the exception of relocation.

25 CHAIRMAN WAIT: And that's a moving target at

1 this time subject to what's going to happen to the
2 agency and all these other issues that are before us.
3 Okay.

4 MS. BLAKE: Yes.

5 CHAIRMAN WAIT: All right. Coming back to this,
6 these numbers, except we're talking about we need to do
7 -- your recommendation is we do a 15 percent in general
8 increase in fees.

9 MS. BLAKE: Yes.

10 CHAIRMAN WAIT: Small other adjustments. So
11 these numbers in this pink box at the bottom is what
12 you're projecting for 2010-2011? Is that correct?
13 Because that's what we're talk -- if we have to raise
14 fees by sometime in May, they go into effect July 1. So
15 is this what you're projecting for 2010-2011?

16 MS. BLAKE: No. Based on the information we know
17 right now, if the fees were 15 percent higher for fiscal
18 '10, which started on July 1 of last year --

19 CHAIRMAN WAIT: Uh-huh.

20 MS. BLAKE: -- instead of being at 89 percent
21 proration, we would be --

22 CHAIRMAN WAIT: Would have been.

23 MS. BLAKE: -- we would have been -- thank you --
24 at '98. So, yes, assuming the industry is in the same
25 position beginning July 1, there's no improvement,

1 there's no decline, then these figures would also be a
2 projection for fiscal 2011.

3 CHAIRMAN WAIT: Okay. So, in essence, what we --
4 what we're really talking about -- I know we've delayed
5 voting on this until, let's say, sometime prior to May
6 11 -- excuse me -- May 15 -- that we are using really
7 fiscal year 2010 numbers and saying if there's really no
8 changes going forward to '11, that we need this 15
9 percent increase.

10 MS. BLAKE: Correct.

11 CHAIRMAN WAIT: But nothing is ever that static.

12 MS. BLAKE: Correct.

13 CHAIRMAN WAIT: So before a May 15 meeting --
14 and, obviously, we still won't know about the one
15 percent increase and what impact that might have -- do
16 you see these -- when I do a budget -- and that's really
17 what we're talking about, is doing a budget.

18 MS. BLAKE: Right.

19 CHAIRMAN WAIT: I look at whatever my last year
20 was. Because I just completed several budgets in
21 November-December for 2010. Then you take -- closely
22 look at 2010 and project is your business going to
23 increase, going to decrease, you're going to do these
24 things, and you tweak your budget, you've been tweaking
25 your expenses, whatever you're doing, whether it's a

1 growth business or a declining business, and you do
2 that.

3 Now, do you anticipate doing something like
4 that for the upcoming year 2011 so that we would have an
5 projection, a healthy projection?

6 MS. BLAKE: We can make some projections based
7 on, you know, what the General Accounting Office tells
8 us is projected growth --

9 CHAIRMAN WAIT: Or decline --

10 MS. BLAKE: -- or decline --

11 CHAIRMAN WAIT: -- or whatever.

12 MS. BLAKE: -- for the industry or market itself
13 compared to the increased cost of doing business and
14 expenses. We can ask for those percentages and give you
15 a projection. It's still a "guesstimate" --

16 CHAIRMAN WAIT: I understand.

17 MS. BLAKE: -- based on what we know.

18 CHAIRMAN WAIT: But would anybody have a better
19 idea than the government itself, than Sam would, as to
20 what he projects for the following 12 months for
21 production? And, I mean, the people that are the head
22 of the industry in this state, I guarantee you they have
23 their own numbers. Is that going to be an increase or a
24 decrease? I personally would rely more on their thought
25 process than I would on some government employee who's

1 not really a distinct part of that industry who lives,
2 eats and breathes by it. Because that's going to tell
3 you what your income portion is, a majority of the
4 income. Because if production goes up, then all
5 revenues relative to this industry goes up or down.

6 MS. BLAKE: Correct.

7 CHAIRMAN WAIT: So to me, if we're trying to get
8 a more focused idea on how we're going to be in Fiscal
9 Year 11, I would think you'd be talking to Sam and to
10 the industry in the State.

11 MR. PALMA: I agree with you wholeheartedly, Mr.
12 Chairman. And, personally, I'm not using this as an
13 excuse by any means. It's a fact. This is my first
14 Board meeting here. I've been with this agency
15 approximately three and a half weeks. I will personally
16 assure you that the next Board meeting we will have this
17 information in such a manner as you can readily refer to
18 it in a much easier manner. Deb -- unfortunately, she's
19 got so many things going that she does the best that she
20 can.

21 CHAIRMAN WAIT: I understand.

22 MR. PALMA: But I personally understand where
23 you're coming from, and Deb does, too. It's just matter
24 of packaging it into such a manner, getting the
25 information that you want, as you said, you know, that's

1 important in making the decisions that need to be made.
2 And I agree with you wholeheartedly. Now, I did a cost
3 analysis at Weights and Measures where we came down and
4 broke down the cost for each program and all. So I
5 know.

6 But let me keep you in mind that we're not
7 management accountants by any means. But we do the best
8 we can, because Deb knows her department, and staff she
9 has knows basically how they do things and how much
10 things cost. But, number one, it's you people and your
11 staff that will help us come to some conclusion on the
12 type of costs going forward once we settle with a
13 benchmark.

14 And that's part of what my priority is here
15 as Director is to try to set those kind of benchmarks
16 so, going forward, we can at least, like you say,
17 measure and say, "Okay. What happens in 2008 or '9 or
18 '10 and go forward and do some forecasting.

19 I'm a person who ran their own business for
20 12 years and practiced law where you account for every
21 darned minute of your time. So I know exactly where
22 you're coming from, and I know how important costs are
23 in terms of running your business. And I intend to
24 bring that same kind of perspective to the department.
25 All I ask is just for a little patience, and you'll be

1 receiving calls from our staff in terms of getting this
2 thing together.

3 But we're definitely on the right track.
4 We're on the same page. All I ask of you is I don't --
5 I want to know what you expect from us. Because
6 sometimes there's an expectation gap in there. You
7 think we're bringing something, and we're bringing
8 something else. So maybe what we need to do is not even
9 in a board setting but in an informal --

10 CHAIRMAN WAIT: Workshop.

11 MR. PALMA: Just, "Hey, what is it that you
12 want?" And if I can deliver, our staff will work on it,
13 and we'll deliver it, considering the parameters of who
14 we are and what we can do for you. But we're here to
15 serve you and to serve what you need to have in terms of
16 making a decision to go forward.

17 So I think -- I hope you take me up on
18 that, and that way we can, you know, personally --
19 again, this is my first formal board government meeting.
20 I've been in corporate settings. And so I would like to
21 think that maybe the Board would be more productive in
22 making decisions going forward rather than -- and I
23 think you're perfectly right when you say some of these
24 numbers are ambiguous, to say the least. And I agree
25 with you. And I am personally not real comfortable with

1 them.

2 Unfortunately, that's what we have to work
3 with right now. Part of my job is making sure that the
4 numbers going forward are as solid as they can be. And
5 that's the commitment you have from me and the rest of
6 my staff. So let's try to, you know, again -- and we
7 can't do this now, but, informally, see what it is you
8 need, and we'll try to meet those needs for you. And
9 information obviously is one of them as to numbers and
10 such.

11 CHAIRMAN WAIT: I applaud your comments, and
12 that's something, I think, that this Board has been
13 striving for for quite some time, to be honest with you,
14 blunt with you. And for us to be making financial
15 decisions between 95 and 105 or anything else, we've got
16 to have some serious numbers to deal with.

17 I would rely upon you from the expense
18 side, but we would like some details on that as what's
19 being requested. I would ask Sam to get together with
20 the other people in the manufacturing industry in the
21 State and help provide some projections for fiscal year
22 -- the 2010-11 period, if you wouldn't mind, and getting
23 those numbers to them, to the department.

24 And like Neal said, I would think it would
25 be a relatively easy thing. Here's for the department

1 as it relates directly to OMH, and here's the Relocation
2 Fund and here's these numbers, so we can look at it and
3 see what's going on specifically. Even though it might
4 not have any impact on how we raise fees or do it, we
5 still need to have an understanding of how those fees
6 come together. So what we need is enlightened numbers,
7 numbers that people have given thought to, before the
8 Board.

9 MR. PALMA: I agree, Mr. Chairman,
10 wholeheartedly. Again, I'm available 24 hours a day.
11 You can e-mail me, call me, or just come in and visit,
12 and I'll be more than happy to sit down with you and
13 find out what it is you're looking for, what you need,
14 and what we can do to fulfill that need. Because we are
15 here to serve you.

16 CHAIRMAN WAIT: Thank you.

17 Did you have a comment, Roger?

18 MR. WENDT: I'll pass for now. Thank you.

19 CHAIRMAN WAIT: Okay.

20 MR. BAIRD: I have a question.

21 CHAIRMAN WAIT: Please, Sam.

22 MR. BAIRD: Our mandate here is May 15. What is
23 our mandate?

24 MS. BLAKE: To establish fees for the new fiscal
25 year.

1 MR. BAIRD: What if we decide we don't want to
2 commit?

3 MS. BLAKE: Then fees that are current are
4 retained.

5 MR. BAIRD: Can we change those fees at any other
6 time other than May 15?

7 MR. HANEY: Not the way I read the statute.

8 CHAIRMAN WAIT: Let me broaden that question.
9 Can we wait until at least May 19?

10 MS. BLAKE: No. We were in that situation last
11 year, Mr. Chairman. No.

12 MR. PALMA: It talks in the statute to establish
13 a schedule of fees payable by persons, etcetera,
14 etcetera, upon review of administrators so that the
15 total annual income derived from such fees will not be
16 less than 95 percent and not more than 105 percent of
17 the anticipated expenditures for the operation of the
18 Office of Manufactured Housing.

19 Now, if your recall, it doesn't say
20 anything about dates in the statute. In the rule it has
21 the date.

22 CHAIRMAN WAIT: May 19 doesn't really play into
23 it anyway.

24 MR. BAIRD: What I was more concerned about was
25 not May 19. What I was concerned about, in December if

1 all of a sudden we start industry doubling in
2 production.

3 MR. HANEY: They're set for the fiscal year, sir.

4 MR. BAIRD: All that money we're just going to
5 end up giving to General Fund or reverse of that.

6 CHAIRMAN WAIT: Can we adjust it down mid-year is
7 the question.

8 MR. BAIRD: Because we don't even know what the
9 expected or projected expenses are for 2010.

10 MS. BLAKE: We would have to --

11 MR. PALMA: That's the whole thing about this.
12 It goes on anticipated.

13 MS. BLAKE: Right. We would have to get
14 clarification and interpretation from the Attorney
15 General's Office. I understand the statute to say you
16 only get one shot a year for adjusting, and that's prior
17 to May 15.

18 MR. PALMA: The statute says is that you will do
19 it.

20 MS. BLAKE: Shall.

21 MR. PALMA: Right. Rule states that the board
22 shall establish a fee schedule before May 15 for the
23 coming fiscal year. So that's in rule. So rule can be
24 changed. But as it currently reads, you're to establish
25 that fee that statute says you're going to set by May

1 15.

2 MR. DeSANCTIS: And Mr. Chairman, we don't even
3 know if this will be allowed to be raised. We're just
4 saying this is what we would like to do, but with any
5 kind of a moratorium, obviously that --

6 CHAIRMAN WAIT: I guess we could always make it
7 subject to certain conditions or changes. But, you
8 know, the question is whether the sales tax increase
9 goes through or not. I would have to agree with Gene's
10 comment it will probably get moved to some other, quote,
11 department. So I think we need to do that.

12 But coming back, though, if you anticipate
13 a further seven percent of the -- none of us are going
14 to know about this May 19 vote, which just means would
15 it be here or get moved elsewhere. But, still, you're
16 going to know or have a good idea if there's going to be
17 a further seven percent cut, or is that seven percent
18 cut purely contingent on the one percent sales tax would
19 be my first question. Did you say seven percent for
20 this coming year additional cut or additional 20
21 percent?

22 MR. PALMA: Twenty percent go from two million --
23 yeah, we were getting a cut. We went from 2,185,000.
24 Then it was 2,062 ,000. Now the latest was 2,007,000
25 for an operating budget.

1 MR. WENDT: If I understand it correctly, you're
2 saying almost 20 percent of that comes from the General
3 Fund?

4 MS. BLAKE: No. Twenty percent of what? I'm
5 sorry.

6 MR. PALMA: If you look at the offset, what's
7 paid into the General Fund and what's taken out of the
8 General Fund, yes.

9 MR. WENDT: So 20 percent of whatever the number
10 is here, 756,000, comes from the General Fund?

11 MS. BLAKE: No.

12 MR. WENDT: Okay. You guys can clarify that in
13 the next meeting. But it's just got me spinning.

14 CHAIRMAN WAIT: And we're talking two million.
15 Yet we're talking about 756,000. So it's a little
16 confusing. Sam.

17 MR. BAIRD: How does one change the rule?

18 MR. PALMA: Two million -- take it back -- is for
19 the Fire Marshal's Office.

20 CHAIRMAN WAIT: Oh. I figured it was.

21 MS. BLAKE: Right.

22 MR. PALMA: So you have to extract -- what you
23 want to do, you want to extract everything out of there,
24 take the Fire Marshal's Office completely out of it.
25 Because nothing from relocation or anything else is used

1 to offset the Office of State Fire Marshal. Then
2 extract from that what percentages come from the actual
3 relocation activities, what come from actual Office of
4 Manufactured Housing and Office of Administration.

5 CHAIRMAN WAIT: So, again, coming back to here's
6 our best guess for 2010 -- fiscal year 2011. Let me say
7 it that way -- is this 756. But you're going to take a
8 look at tweaking that. You're going to have to
9 anticipate are we going to have a further decrease.

10 MS. BLAKE: Yes.

11 CHAIRMAN WAIT: So that when we meet, we have a
12 serious number to talk about, as good a guess as we can
13 possibly come up with. Because that's what it is. Try
14 to do as good a guess as you possibly can.

15 MS. BLAKE: Yes.

16 CHAIRMAN WAIT: Okay. Well, speaking of beating
17 dead horses. Do you want beat it some more? Go ahead.

18 MS. MCGILVERY: I just wanted to say how do you
19 go about changing a rule?

20 MR. BARGER: You have to amend the rule through
21 the rule process. You have to actually go through what
22 we call a rule-making process. And there is a
23 moratorium on rule-writing.

24 MS. MCGILVERY: That answers that question.

25 MS. BLAKE: What a surprise.

1 MR. PALMA: To change a rule, Catherine -- it's
2 easier to change a statute.

3 MR. HANEY: But not a lot.

4 CHAIRMAN WAIT: Right now it's impossible.

5 MS. BLAKE: It's a process, Catherine. We have a
6 rule packet ready that was going to move forward. And
7 we actually had an independent person preparing that for
8 us to take before the board that does that, the review
9 committee. And then we got the moratorium from the
10 Governor.

11 So we have a lot of changes in the rules.
12 So if you have others as we look at this, like changing
13 this date to establish fees, we can incorporate it. We
14 just can't do anything with it right now.

15 CHAIRMAN WAIT: Roger.

16 MR. WENDT: You guys may have forgotten some of
17 this. But the rules we've changed here, Sam, over the
18 last decade or so that Ross and I have been here take 18
19 months, two years.

20 MR. BAIRD: Once you get past the committees.

21 MR. WENDT: Even in regular times. By the time
22 you go on from the Governor's Office, what do you call
23 it? Curfew, they call it. It's excruciating.

24 MR. BAIRD: I just think the Board should have
25 the ability to adjust the rates according to the

1 expenditures.

2 CHAIRMAN WAIT: Makes too much sense.

3 MR. PALMA: Well, it says you shall establish a
4 fee schedule. Whether you have to actually charge that
5 fee is another --

6 MR. BAIRD: Everything a lawyer says is bad.

7 MR. PALMA: Well, that's immediately what came to
8 my mind is you can establish a fee schedule, but it
9 doesn't say you shall charge. I mean, it can be the
10 upper limit.

11 MR. BAIRD: I see.

12 MR. PALMA: I made a note to myself to look at
13 that.

14 MR. WENDT: Mr. Chairman, that's a great thought,
15 because we've set the fee schedule consistently for an
16 installation permit \$200, and the Director has chosen to
17 charge only 120.

18 MS. BLAKE: Correct.

19 MR. WENDT: So that's usually possible in most of
20 these areas.

21 MR. PALMA: I wanted to get an official
22 interpretation on that before I --

23 MR. WENDT: We've been doing that consistently
24 for at least five years.

25 MR. HANEY: If I renewed my license in January

1 and had to pay 500 and you renewed yours in June and
2 only had to pay 300, I'd be a little unhappy.

3 MR. WENDT: I'd give you a hundred.

4 CHAIRMAN WAIT: But to continue your thought
5 process, we are, quote, mandated to keep it between 95
6 to 105. To truly do that really would be -- you'd have
7 to be like a corporation. As you go along, you tweak
8 things as they go along when they face reality.

9 MR. BARGER: That would be the reason behind it.

10 CHAIRMAN WAIT: Yeah. In order to maintain that,
11 we might need to reset fees up or down, you know, during
12 the year to accomplish the mandate of 95 to 105.

13 MR. PALMA: You're right. And we may need some
14 facilitating language in the rule or in the statute to
15 allow for greater flexibility there. But, again, I'm
16 willing to look at that and see what I can do on that
17 end.

18 CHAIRMAN WAIT: Okay. All right. Again, I
19 believe we beat this horse to death.

20 All right. Next item on the agenda is
21 Recovery Fund. Fund balance and pending claims and cash
22 bond reconciliation update. I believe we've pretty much
23 covered that. And request by designate Ken Anderson as
24 an interested party in all Recovery Fund cases coming
25 for hearing at the Office of Administrative Hearings.

1 Catherine.

2 MS. MCGILVERY: Why would we have somebody that's
3 not on the Board do that?

4 CHAIRMAN WAIT: I think it makes perfect sense.
5 I think it makes perfect sense. Because Ken's position
6 is probably a position-driven thing rather than Ken's
7 name, so to speak, is they represent the industry that's
8 putting the money into the fund and the money that's
9 going out. Currently, there is no one going to these
10 meetings. If I am the retailer who took \$800,000 and is
11 sitting somewhere around Phoenix in my million dollar
12 house smoking cigars, am I going to go to a hearing to
13 say, "Hey, don't pay this out"? You're going to be low
14 profile.

15 Ken in his position as president would be
16 there to represent the industry, what's in the
17 industry's best interests, in my opinion.

18 MR. HANEY: Does the designation "interested
19 party" give him legal standing to argue?

20 MR. PALMA: No. That's where I was going to kind
21 of take this. Because administrative hearing process is
22 more of just a review of issues. And it's one of those
23 things where you have the petitioner and the respondent,
24 but the administrative law judge may allow people to sit
25 in or may not. But you can't sit in as a participant to

1 represent one side or the other.

2 Now, if you have an attorney, which most of
3 the times on the respondent's side they have an attorney
4 representing them because they're the ones that are
5 being challenged by the petitioner. The petitioners may
6 or may not have somebody sit in on that.

7 Now, mostly on Recovery Fund, one party is
8 out of business is why they went to the Recovery Fund
9 hearing. So you have actually an issue where the
10 petitioner has filed a petition, said that "The dealer
11 went out of business. It cost me this much money to
12 finish putting the house in. I've got three estimates
13 on how much it's going to cost to finish the house,"
14 whether it was partially installed or whatever, present
15 that at the hearing, and there's usually -- you're right
16 -- nobody there on the other side to represent the
17 respondent's side.

18 I don't think in an administrative hearing
19 process that somebody can be designated to do that. But
20 I think we'd have to look at that. I don't know.

21 MS. BLAKE: Mr. Chairman and Board, I was going
22 to ask for clarification on that as well. Because I
23 guess in my mind what I interpreted this to mean is that
24 when we issue a Notice of Hearing for Recovery Fund
25 cases, that Notice of Hearing tells about the amount of

1 money that's going to be -- that has been requested to
2 be heard by the administrative law judge.

3 When we issue that Notice of Hearing, it's
4 a public record. So we can certainly give a copy of
5 that, as a matter of internal policy and procedure, to
6 Ken or any other public member that wants it. And then
7 if Ken sees something that makes him question whatever
8 or he just wants to attend them, he could certainly go
9 over there. But it's going to be up to the judge, I
10 think is my understanding, whether or not he can speak
11 to it or not. But at least he would be informed as to
12 when it's going over, how much money.

13 And you all, of course, know that this
14 comes from that one huge case where a consumer paid
15 \$160,000 for a home and hit the Recovery Fund for --
16 what? 250 something. And really had requested 400,000
17 because she wanted attorney's fees.

18 And so that has to make sense, you know,
19 from the Association's perspective, all of you, how do
20 you get from what you paid for the house, padding it
21 100,000 or whatever it was. We don't get many of those.
22 But it sure should send up a flag when we do.

23 CHAIRMAN WAIT: Absolutely.

24 MS. BLAKE: And so I guess I just wanted to make
25 sure, you know, from our perspective what it is you're

1 directing us to do. And if it is just get me a copy of
2 all Recovery Fund Notice of Hearings, you know, that's
3 something we certainly could do. But we don't have
4 control over their processes over at the other office.

5 MR. BAIRD: I think what the board was looking
6 for was somebody to represent Recovery Fund. I mean,
7 there's a lot of people who think that there's nobody
8 there but a person who thinks that they got taken
9 advantage of and they're owed a bunch of money. There's
10 nobody saying the other side. So you've got that person
11 and the judge. And there's nobody representing the
12 industry, the department, the Recovery Fund, the system.
13 There's nobody there representing them.

14 That's what we were looking for, was, "Hey,
15 wait a minute. You know, it doesn't cost \$50,000 to do
16 this. We know it doesn't. So these estimates are way
17 off," or something. And if you don't have that, you're
18 just going to go through what we went through. We went
19 through a million bucks here in 14 months.

20 MR. DeSANCTIS: Mr. Chair, Debra, is what I'm
21 reading to request the Board would designate, we would
22 actually make a motion? I mean, sounds like anybody
23 could technically show up if forewarned or given notice.

24 MS. BLAKE: Yeah, I think so. I mean, this
25 language came from the minutes from your September

1 meeting where Ken as a public member requested that. It
2 wasn't agendized. So you all need to consider that.
3 I'm not sure how the mechanics of it works.

4 MR. HANEY: So this would really give him no
5 legal standing.

6 MS. BLAKE: It gives him no legal standing.

7 MR. HANEY: And what he wants -- and as far as
8 informing him, that could be done without any board
9 action?

10 CHAIRMAN WAIT: So there's --

11 MS. BLAKE: Yes.

12 CHAIRMAN WAIT: There is two things. You can at
13 this point provide Ken with the information of any of
14 these hearing cases. Is that what you said?

15 MS. BLAKE: Yes.

16 CHAIRMAN WAIT: And that can be provided.

17 Is that something you would like to have
18 your hands on, Ken?

19 MR. ANDERSON: Yes, Mr. Chairman.

20 CHAIRMAN WAIT: Next question I would have, is
21 there some method that, like, Sam says, an advocate for
22 the Recovery Fund can be present to speak on its behalf.
23 I mean, is there any legal mechanism that would allow
24 that to happen?

25 MR. BARGER: Well, in our process because on

1 recovery fund, we do a -- we send an inspector out.

2 MS. BLAKE: Yes.

3 MR. BARGER: So in that response, we send out a
4 verification inspection. And that's what we verify to
5 certain things in this process. That goes to hearing as
6 part of the package. The AG represents this office in
7 all issues concerning that. So that would cause -- if
8 we were to go that route, then the RAG, which again is
9 kind of a go-around circle now, we would have to request
10 the AG's Office to attend every one of those hearings
11 and have to educate them on everything that's going on.

12 MS. BLAKE: Right. And I agree. I think from
13 our perspective, if we had any major hearing over
14 there -- and we've had -- is that we would -- the
15 department would provide witnesses, which in this case
16 would be our complaints manager, who received the
17 complaint, talks with the consumer, our inspector who
18 goes out and verifies what the consumer's alleging or
19 not. But we would have to be represented by legal
20 counsel from the AG's Office, as Bob said, which is a
21 challenge right now, because we don't pay them. And
22 even though they're mandated, they've had cuts. So if
23 we need to go that route --

24 CHAIRMAN WAIT: Well, here's the thing. Coming
25 back with this making something done, if someone says,

1 all right, "I didn't receive my air conditioner."
2 Someone from the department goes out and verifies, no,
3 there's no air conditioner. Let's say the air
4 conditioner cost four grand. But this person has put in
5 their quote 20. So would your person even be able to
6 speak to that?

7 MS. BLAKE: Well, yes. Because what the
8 department provides is exhibits. So we require a
9 consumer to give us a copy of their purchase contract.
10 So they know what the contractual obligations were. And
11 then we send out somebody to verify that.

12 If they, in fact, didn't get their air
13 conditioning unit and they did order it, then the burden
14 falls on the consumer to get three quotes, kind of like
15 the old days when you had to have your car worked on,
16 three quotes from reputable businesses in Arizona of
17 what it would cost so that the judge has that
18 information to make his decision.

19 So we don't take it at face value. There
20 is some investigation and documentation to support it.
21 Could they still get away with stuff? Well, yeah.

22 CHAIRMAN WAIT: Well, again, I'd like to come
23 back and have staff take a look and see if there is some
24 way there could be an advocate, no matter who that is.
25 Is there any way an advocate on behalf of the Recovery

1 Fund could attend these meetings legally? I would like
2 that to be looked into, to see if that's possible.

3 And after that last situation, I have,
4 like, zero faith in the Attorney General's Office. When
5 someone walks out the door with \$840,000 and won't even
6 investigate it, as this guy walks scot-free. I find
7 that dumbfounding.

8 Had you heard about that, Gene?

9 MR. PALMA: Yes, I've heard about that case,
10 unfortunately. So I don't --

11 CHAIRMAN WAIT: Is it too late for you as an
12 attorney, with your attorney background, to pursue that?
13 I'm trying to get you a white hat.

14 MR. PALMA: Let me just emphasize that for the
15 record I'm here in the capacity as Director and not
16 attorney. And I'm not giving legal advice.

17 CHAIRMAN WAIT: No, I understand that.

18 MR. PALMA: But I would -- just from experience,
19 I'm pretty positive that it would be up to the
20 individual administrative judge on the case to allow
21 somebody to advocate for a certain position who doesn't
22 have standing in the case.

23 So that means basically Ken would have to
24 put in a motion to appear on behalf just as an advocate,
25 and then that judge would have to say, "I care" -- he

1 may just say, "You know what? Your brief explains
2 your -- what do you call that? I'm sure you've heard of
3 them -- amicus brief. Basically, you're not involved in
4 the case, but you have an opinion on it. I would think
5 they're more open to something like that than they would
6 be to have somebody physically appear there and give an
7 oral argument.

8 But I'm not sure. I'd be more than happy,
9 and Deb and I could submit that question for further
10 research. But I'm pretty sure that would be a tough
11 sell.

12 CHAIRMAN WAIT: Well, I think if the -- you know,
13 if we are able to get everything run through a title
14 company, meaning a true trust account, and anything over
15 50,000, that's going to take a lot of pressure off this
16 process.

17 MR. PALMA: Yes. Hopefully.

18 CHAIRMAN WAIT: That legislatively that will take
19 place and move that forward to reduce that overall risk
20 to that Recovery Fund.

21 MR. BARGER: That was consideration for the new
22 legislation and everything. That whole process.

23 CHAIRMAN WAIT: Okay. I'm sorry, Catherine.

24 MS. MCGILVERY: Would it be proper to make a
25 motion that we kind of table this until we get some more

1 information back?

2 CHAIRMAN WAIT: Well, I think it's just a case
3 we'll carry it over to the next meeting. I'm not sure
4 it needs a motion to do so.

5 MS. MCGILVERY: Oh, all right.

6 CHAIRMAN WAIT: We'll just carry it over to the
7 next meeting while staff does some research on that.

8 Okay. Bonding requirements. That's just
9 an ongoing standing item. Like I've just said, that if
10 we could get a legislative change and have true trust
11 accounts in place, that would do a lot to, quote,
12 protect that Recovery Fund. Then it would be, quote,
13 protecting those people that have less than a \$50,000
14 purchase. Anybody else have any comments regarding
15 bonding?

16 Okay. Call to the public? Ken, please.

17 MR. ANDERSON: Mr. Chairman and members of the
18 Board, thank you. Perhaps I can clarify my point about
19 being an entrusted party. Not so much to testify at a
20 hearing, because I understand there are restraints on
21 that. But to report back to the Director of any
22 impropriety that I might see in the documentation.

23 For example, the one case that we referred
24 to, quarter of a million dollars loss, I'm going to read
25 one paragraph. "The demolition and regrading of the

1 property will destroy petitioner's front landscaping.
2 Petitioner originally requested only the amount that she
3 paid, which was \$3,500. However, at the hearing she
4 provided an estimate from one licensed landscaper
5 showing \$1,646 for replacement. The estimate from the
6 licensed contractor is found to be the best assessment
7 of petitioner's damages and so awarded."

8 If I see a large case, my point is I would
9 report back to the Director and say, "Mr. Director, you
10 have so many days to appeal this ruling. Let's take
11 another look at it if we can and go from there."

12 When he appeals that decision at that
13 point, the finding is withheld until the appeal process
14 goes through. So that's my intent.

15 CHAIRMAN WAIT: Sure.

16 MS. BLAKE: But who would -- Ken, excuse me. Who
17 would appeal it? Because, typically, the retailer is
18 not there.

19 MR. ANDERSON: It would be the Director that
20 would have to.

21 MS. BLAKE: I don't think the Director has the
22 authority. He doesn't have the authority.

23 MR. ANDERSON: I saw it in the statutes.

24 MS. BLAKE: Well, he has the authority to accept,
25 reject, or modify decisions that come from the Office of

1 Administration with the exception of Recovery Fund and
2 when we used to do Homeowner Association cases. Those
3 are taken at face value, and then the Director is
4 directed, or the Board, to pay the amount that the judge
5 awards. I don't think there's an appeal process on
6 that.

7 MR. ANDERSON: I think that's something we should
8 look at. Because as I recall, there was a 60-day appeal
9 process where the judge's findings were set aside during
10 the appeal process.

11 And that's my only point. Because if it's
12 a small amount, I'm not going to be there. But if it's
13 another \$250,000, I'm probably going to be there.

14 MS. BLAKE: And I think the appeal thing you're
15 talking about, there is a 30-day appeal process. But
16 the only individuals who can appeal are the parties. So
17 the retailer, who's typically out of business, can
18 appeal it. They have at times, I think. Or if the
19 consumer wasn't happy with the award, they can appeal
20 it. But I don't believe the Director has the authority.

21 MR. ANDERSON: I think that's where the
22 interested party language steps back in again.

23 CHAIRMAN WAIT: Okay. We'll research that.

24 MR. ANDERSON: Thank you.

25 CHAIRMAN WAIT: See if there's any possibility of

1 doing that. Thank you.

2 Anyone else from the public? All right.

3 MS. HOLT: I would like to introduce myself.

4 CHAIRMAN WAIT: Sure.

5 MS. HOLT: My name is Kara Holt. And it's great
6 to be here. And I just want to thank you all for
7 including me. And I guess, you know, I'm in sales. I
8 represent resale brokers. And the best thing we can do
9 is sell homes. That's what we need to do. We need to
10 sell homes.

11 You know, I've been in the industry for 20
12 years, and I just want to work with everybody, network
13 and coordinate, so we can get the financing that we
14 need. I mean, that's it is biggest thing. We need to
15 be able to get financing, to get financing for our
16 customers, so we can have more production at CAVCO or
17 wherever. And we need the parks to keep their space
18 rent low so that people will continue to buy in the
19 parks so we can --

20 You know, the thing is that a lot of the
21 income expense issues that you're talking about, we're
22 talking about variable and fixed expenses. There are
23 fixed expenses that are associated with salaries,
24 etcetera. But all the variables are the license fees.
25 If people go out of business, you're not going to be

1 getting any license fees, any new sales people,
2 etcetera. So, anyway, I'm just here to join together as
3 an industry and figure out a way to solve this.

4 The other thing I want to comment on, it
5 sounds to me like there's a discovery process that
6 happens through the original complaint hearing. So when
7 it makes sense, maybe that would be available to look at
8 some of that data prior to the hearing so you could
9 prepare ahead of time to see if there was any
10 discrepancy and some of the material that was being
11 provided in the complaint process. Then, you know,
12 you'd be kind of prepared ahead of time. Rather than
13 having it have to be an appeals process, you'd be
14 prepared at the time of the hearing. Anyway, just an
15 idea.

16 And then one last thing, on the budget
17 thing earlier we were talking about, I think that on
18 that first section when you were trying to figure out
19 whether it was 15 -- like 12,000, which was 75 percent
20 of the 15 on this first page up in monthly summary
21 report, the total expenditures are subtracted from the
22 prior year interest. Right? So the remaining balance
23 is 4,559, is 75 percent of the remaining balance. So
24 that's where the 75 percent comes from. Right? You
25 were trying to figure out --

1 MR. HANEY: It's all mislabeled.

2 MS. HOLT: Yeah. No. I know. But I'm saying
3 the reasoning behind it, it seemed like that was kind of
4 being missed. Anyway, I think that's what you meant;
5 right?

6 No. It was the discussion between you two.
7 You were talking about if this prior year interest of
8 15,679, and you were trying to figure out 75 percent of
9 that for education. But it wasn't. You have to
10 subtract expenses from that before you calculate the 75
11 percent of the remaining. So that's where that figure
12 came from. And it just seemed like that was getting
13 missed when you guys were talking.

14 MS. BLAKE: I think Neal made a great point,
15 though, and that is that we need to represent the
16 numbers right. The numbers are right. They're labeled
17 wrong. And when you calculate 75 percent off of the
18 interest and then minus deductions; then you come up
19 with --

20 MS. HOLT: Expenses.

21 MS. BLAKE: -- a running total. And we just need
22 to do it differently.

23 MS. HOLT: Thank you for letting me speak.

24 CHAIRMAN WAIT: A pleasure. Thank you.

25 All right. Next meeting date would be May

1 something.

2 MS. BLAKE: Before May 1.

3 MR. PALMA: You mean we have to do this again?

4 MR. HANEY: Typically, it would be May 19, but we
5 have to have a special meeting before that.

6 CHAIRMAN WAIT: We have to do it sometime prior
7 to May 15. So --

8 MR. HANEY: That will be -- the 19th is a
9 Wednesday?

10 CHAIRMAN WAIT: Yeah. So can we move it up one
11 week to the --

12 MR. BAIRD: Monday's the 10th.

13 CHAIRMAN WAIT: How about we just move to it
14 Wednesday before? I'm just suggesting.

15 MR. BAIRD: That's the 12th.

16 MR. HANEY: Be the 12th?

17 MR. BAIRD: I'm okay.

18 MR. WENDT: May 12?

19 CHAIRMAN WAIT: Yeah. I don't have my calendar
20 with me.

21 MR. GIBB: Here's one.

22 CHAIRMAN WAIT: No. That won't help me.

23 MR. GIBB: Oh, yours.

24 CHAIRMAN WAIT: Yeah.

25 MS. BLAKE: Wednesday, May 12?

1 CHAIRMAN WAIT: Yes. Just do it the week earlier
2 and meet that May 15.

3 MR. WENDT: And the only item on that agenda will
4 be the fees?

5 MS. BLAKE: That was my question. Is that the
6 only item you want on that agenda, the fees?

7 CHAIRMAN WAIT: Well, there were several other
8 questions that have been raised in this meeting that
9 will be on that agenda also.

10 MR. HANEY: Perhaps some of that information
11 could be gotten out to us.

12 CHAIRMAN WAIT: As soon as you have it.

13 MS. BLAKE: So you want a full board meeting with
14 all the action items on the agenda we talked about
15 today. Okay.

16 CHAIRMAN WAIT: Gene had such a good time this
17 time, he wants to do it again as soon as possible.

18 MR. PALMA: I was hoping we could get together
19 next week.

20 CHAIRMAN WAIT: All right. I'd entertain a
21 motion to adjourn.

22 MR. HANEY: So moved.

23 CHAIRMAN WAIT: He's anxious on that one. Is
24 there a second?

25 MR. BAIRD: Second.

1 CHAIRMAN WAIT: All right. All those in favor
2 can walk.

3 Thank you, everybody, for being here.

4 (The proceedings concluded at 2:53 p.m.)
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1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA) SS.

3 CERTIFICATE

4 BE IT KNOWN that the foregoing proceedings were taken
5 before me, DOREEN C. BORGMANN, RMR, CRR, Certified
6 Reporter, Certificate No. 50644, State of Arizona; that
7 the proceedings were taken down by me in shorthand and
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13 I FURTHER CERTIFY that I am in no way related to any
14 of the parties hereto, nor am I in any way interested in
15 the outcome hereof.

16 DATED at Phoenix, Arizona, this 31st day of March,
17 2010.

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DOREEN C. BORGMANN, RMR, CRR
Certified Reporter
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